

ALERT

FCC Modernizes Satellite and Earth Station Licensing Process

September 25, 2023

Looking to keep pace with the rapid evolution of the space industry, the Federal Communications Commission (FCC) approved a Report and Order (Order) to accelerate existing processes for licensing satellite and earth stations. Noting an “increase in complexity and number” of space and satellite-related applications, the Order establishes timelines for placing new applications on public notice and eliminates existing rules that prevent consideration of certain space station applications. Also, a Further Notice of Proposed Rulemaking (FNPRM) invites comment on additional streamlining proposals.

The Order and FNPRM are among the “the first of a series of measures that [the FCC] will undertake to improve the Space Bureau’s processes and procedures.” Comments on the FNPRM are due 30 days after publication in the Federal Register, and reply comments are due 60 days thereafter. We summarize both the Order and FNPRM below.

REPORT AND ORDER

Timelines for Public Notice

The Order adopts new timelines for the initial review of space and earth station applications. Specifically, the Order establishes a timeline of 30 days for earth station or geostationary satellite orbit (GSO) space station applications, and 60 days for non-geostationary satellite orbit (NGSO) space station applications, for Space Bureau staff to either (1) determine that the application is acceptable for

Authors

Jennifer D. Hindin
Partner
202.719.4975
jhindin@wiley.law

Henry Gola
Partner
202.719.7561
hgola@wiley.law

Jillian M. Quigley
Associate
202.719.4668
jqquigley@wiley.law

Practice Areas

Telecom, Media & Technology

filing and place it on public notice, or (2) “notify the applicant that the staff has identified questions, errors, or omissions, and that the application will not be placed on public notice under after [these concerns] are addressed by the applicant to the satisfaction of the Bureau.” While “expect[ing] Space Bureau staff to act on applications consistent with the specific timelines,” the Order “recognize[s] that unusual circumstances may prevent such timely action.”

The Order declines to adopt “shot clocks” for taking action on the merits of an application. However, the Commission seeks comment in the FNPRM on proposals regarding shot clocks and/or timeframes for action.

Earth Station Applications to Add Points of Communication

The Order adopts a new streamlined process for a limited set of earth station operators to add satellite points of communications via a 35-day auto grant process. These applications will be deemed granted 35 days after being found acceptable for filing and placed on public notice.

To qualify for expedited processing, applications must:

- Be unopposed;
- Be in a band that is not shared with federal or terrestrial wireless users;
- Request only that points of communication be added (e., the application cannot also request other modifications);
- Demonstrate that the addition of a new point of communication will not cause transmissions to exceed the maximum effective isotropic radiated power (EIRP), EIRP density, and bandwidth prescribed for an already authorized emission; and
- Must not cause the earth station to repoint its antennas beyond any coordinated range.

The Commission is also seeking comment on additional circumstances in which adding a satellite point of communication could be expedited.

Applications Not Conforming with International Frequency Allocations

The Order also amends the acceptability for filing criteria to allow applications that request waivers of the International Table of Frequency allocations. These waiver requests will now be evaluated on a case-by-case basis and placed on equal procedural footing as other requests for waiver of substantive Commission rules. Any waivers granted will continue to include non-interference and coordination conditions, as necessary.

Unbuilt System Rule

The Order modifies Rules 25.159(b) and 25.137(d)(5) to allow a licensee/market access grantee to apply for another NGSO license/grant with the same frequencies as an already licensed-but-unbuilt NGSO system. However, the FCC will continue to prohibit NGSO operators from filing multiple applications for the same frequencies in the same NGSO system processing round.

The FCC's New Transparency Initiative

Lastly, the Commission's Space Bureau has undertaken a Transparency Initiative to provide clarity and guidance on procedures and requirements for obtaining authorization for proposed space and earth station operations. This initiative will provide information in various forms to interested parties such as public workshops and helpful links on the Commission's website. Topics covered by this initiative will include application completeness and orbital debris requirements.

Other Rule Changes

The Commission also:

- Declines to adopt automatic renewals for Special Temporary Authority (STA) requests while an underlying application is pending.
- Declines to consider changes to the FCC's emission designator requirements, emphasizing "the importance of necessary information to inform the licensing process and make a determination to authorize an operation under Part 25."
- Declines proposals to require earth station operators in Upper Microwave Flexible Use Service (UMFUS) bands to engage in pre-application coordination and certify conformance with Rule 25.136.
- Declines to amend the existing station keeping requirements in Rule 25.210(j), which allow GSO satellites to operate within 0.05° of their assigned orbital longitude, while reminding operators that the FCC has granted and will continue to consider waivers if needed under unique conditions.
- Agrees to consider industry suggestions related to licensing conditions, such as limiting the number of rule restatements and standardizing language used in conditions but declines to adopt specific rules.
- Announces updates to the International Communications Filing System (ICFS), including automatic error notifications in Form 312, data entry alerts for misinformation, pre-filled sections based on previously entered data, and overall validation prior to submitting a filing. Also previews upcoming changes to FCC Form Schedule B and the Schedule S, which seek technical information for earth station and satellites.

FURTHER NOTICE OF PROPOSED RULEMAKING

Minor Modifications Without Prior Authorization. FCC Rule 25.118 allows space and earth station operators to make certain modifications to their systems without prior Commission approval. The FNPRM seeks comment on whether to expand the list and, if so, what kinds of modifications should be included and what notification process is appropriate. Specifically, the FCC seeks input on several "minor modifications" proposed by operators including allowing space station operators to change antenna parameters and permitting earth station operators to remove satellite points of communication and modify antenna IDs.

Permitting Communications Service Operations During Space Station Drift. Under existing rules, space station operators may only operate tracking, telemetry, and command (TT&C) functions during certain satellite drifts. The Commission seeks comment on whether it should permit space station operators to continue customer operations during drift, and if so, how best to protect other operators from harmful interference that might occur during relocation. The FNPRM suggests several solutions, such as requiring pre-coordination with other potentially affected licensees, only allowing operations on a non-interference, unprotected basis, and only allowing operations other than TT&C for short drift periods (e.g., 30 days or less).

Special Temporary Authority Equivalent for Market Access Grantees. The FNPRM notes that although existing rules allow market access grantees to file applications roughly equivalent to amendment and modification applications, there is no market access equivalent to a request for special temporary authority to address short-notice or short-term operational changes. In recognition of this gap, the FNPRM contemplates establishing a process equivalent to STAs for market access grantees.

Considering STA Extension Requests Concurrently with Initial STA Applications. The Order finds that the FCC lacks statutory authority to extend STA authorization automatically while an underlying STA renewal application is pending. The FNPRM seeks comment on a proposal to allow operators to request multiple extensions of an initial 60-day STA as part of the same initial STA application, including whether it would comply with statutory requirements. The Commission also asks how this proposal would impact the assessment of application filing fees.

Additional Consideration of Shot Clocks and Processing Timelines. The FNPRM seeks further comment on whether to establish shot clocks and application processing timelines. In particular, the Commission notes that it has established shot clocks in other contexts, including for major transactions and state and local review of wireless siting facilities. It accordingly requests information on how and whether these and other application processes with timelines or shot clocks may be applicable to or different from the satellite and earth station context.

Expanding Timeframes for Filing License Renewal Applications. Under current rules, earth station operators may submit applications to renew their licenses between 30 and 90 days before the license expires. The FNPRM proposes to expand the renewal period so that operators can submit renewal applications up to 180 days before license expiration. The Commission also notes that operators must continue to submit applications at least 30 days before a license expires so that Commission staff have enough time to place renewal applications on Public Notice.

Likewise, the Commission considers adopting similar reforms for NGSO systems, and proposes a renewal window between 30 and 180 days before the end of the twelfth year of an NGSO's fifteen-year license term.

Earth Station Licensing Without an Identified Satellite Point of Communication. The FNPRM seeks comments on its proposal to allow applicants to submit earth station license applications without identifying specific satellite points of communication. Under this proposal, operators would receive a limited license conditioned on identifying a specific point of communication prior to operations unless the point of communication is

already on the Permitted List.

Permitted List for NGSO Operators. The Commission seeks comment on whether it should allow earth station operators to request to communicate with certain authorized NGSO systems through a procedure like the “permitted list” used for GSO satellites.

Inter-Bureau and Inter-Agency Review and Coordination Streamlining. The FNPRM seeks comment on several proposals to streamline inter-bureau and inter-agency review of applications and asks for additional proposals. The FCC also asks whether it is possible to eliminate certain coordination requirements and instead coordinate earth station sites and frequencies as part of either space station or earth station coordination with the National Telecommunications and Information Administration (NTIA).

Other Administrative Changes. The FNPRM also proposes and seeks comment on several administrative changes, including eliminating the rule that requires operators to keep a paper copy of any electronically filed application and changing the default ex parte status of all earth and space station applications from “restricted” to “permit-but-disclose.”

For more information about the Order and FNPRM, please contact any of the authors listed on this alert.

Melissa Alba, a Law Clerk in the Telecom, Media & Technology practice, contributed to this alert.